

FILED

APR 01 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JESSE AVILA,

Plaintiff,

v.

JEANNE WOODFORD,

Defendant.

No. C 07-0143 MJJ (PR)

**ORDER DIRECTING
DEFENDANT TO FILE
DISPOSITIVE MOTION OR
NOTICE THAT SUCH MOTION IS
NOT WARRANTED**

Plaintiff, a California parolee, filed this pro se civil rights complaint pursuant to 42 U.S.C. § 1983, alleging that defendant, the director of the California Department of Corrections and Rehabilitation, has not implemented adequate safeguards to protect him from the violence of gang members when he reports to his parole agent.

On July 25, 2007, the Court found the Complaint, when liberally construed stated cognizable claims for relief. The Court ordered service of the Complaint on defendant, and directed defendant to file, within 90 days, either a dispositive motion or a notice that she is of the opinion that plaintiff's claims cannot be resolved by such a motion. The Clerk issued the summons on December 10, 2007, and it was returned to the Court executed on January 24, 2008. On January 28, 2008, defendant filed a waiver of reply, but has not filed either the dispositive motion or notice ordered on July 25, 2007, nor has defendant sought an extension of time to do so. This will not suffice. Within 60 days of the date this order is filed, defendant shall file either a dispositive motion or a notice that she is of the opinion that plaintiff's claims cannot be resolved by such a motion. Failure to


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1 do so, or to seek a timely request for an extension of time accompanied by a showing of
2 good cause, as provided for in the July 25, 2007 order, may result in defendant's forfeiting
3 the opportunity to file a dispositive motion in this matter.

4 All of the provisions of the July 25, 2007 order not inconsistent with this order
5 remain in effect.

6 IT IS SO ORDERED.

7 DATED: 4/1/2008

8 
9 MARTIN J. JENKINS
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JESSE AVILA,

Plaintiff,

v.

JEANNE WOODFORD et al,

Defendant.

Case Number: CV07-00143 MJJ

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on April 3, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Jesse Avila
Prisoner Id (BFN CQL 474; BKN 07017371)
2845 Buena Crest Court
San Jose, CA 95121

Dated: April 3, 2008



Richard W. Wieking, Clerk
By: Monica Narcisse, Deputy Clerk